
IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

DOUGLAS MOOMEY,

Plaintiff,

v.

**EXPRESS MESSENGER SYSTEMS,
INC., dba ONTRAC, *et. al.*,**

Defendants.

**ORDER REAFFIRMING &
READOPTING REPORT &
RECOMMENDATION**

Case No. 2:21-CV-575-DAK-JCB

Judge Dale A. Kimball

Magistrate Judge Jared C. Bennett

On June 1, 2022, this court issued an Order Affirming and Adopting United States Magistrate Judge Jared C. Bennett's May 9, 2022 Report and Recommendation. At that time, the court had received no objection to the Report and Recommendation from Plaintiff. On June 7, 2022, however, Plaintiff filed an objection to the Report and Recommendation, stating that his objection was mailed the same day as May 18, 2022 Motion to Amend and must have been lost in the mail. Under these circumstances, the court is willing to consider Plaintiff's objection.

Plaintiff states that he has filed numerous motions and evidence of a crime being committed by the defendants. Plaintiff has not filed anything in this case relating to a crime. He has made allegations that Defendant's actions violate certain civil statutes. However, there are no allegations or evidence of a crime.

Plaintiff also objects to the court's analysis regarding Title III of the Americans with Disabilities Act. But the court's analysis regarding the difference between a public accommodation claim under Title III and an employment claim under Title I applies the

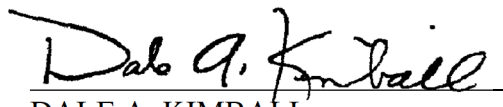
governing law on this subject. Plaintiff cites to no governing law that contradicts the court's analysis. Therefore, Plaintiff has demonstrated no grounds for objecting to the court's analysis of his ADA claims.

Plaintiff further objects to the court's recommended dismissal of his Section 1983 and Fourteenth Amendment claims because he claims that these claims should apply to "any person." However, the provisions apply to any person acting under color of state law. As the court correctly explained, Plaintiff has not demonstrated that Defendants were acting under color of state law. Therefore, there is no basis for objecting to the court's analysis with respect to these claims.

The court has conducted a *de novo* review of the motions addressed in the Report and Recommendation and considered Plaintiff's objections. The court continues to agree with Magistrate Judge Bennett's recommendations in their entirety. Therefore, the court readopts and reaffirms Magistrate Judge Bennett's Report and Recommendation as the Order of the court.

DATED this 16th day of June, 2022.

BY THE COURT:


DALE A. KIMBALL
United States District Judge